

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ADAM GILLAM, individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

RELIANCE FIRST CAPITAL, LLC, a New
York company,

Defendant.

NO.

CLASS ACTION COMPLAINT

JURY DEMAND

Plaintiff Adam Gillam (“Plaintiff” or “Gillam”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Reliance First Capital, LLC (“Defendant” or “Reliance First Capital”) to stop the Defendant from violating the Telephone Consumer Protection Act by placing telemarketing calls *without consent* to consumers who registered their phone numbers on the National Do Not Call registry (“DNC”). Plaintiff Gillam, for this Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

PARTIES

1. Plaintiff Adam Gillam is a resident of Elwood, Indiana.
2. Defendant Reliance First Capital is a Delaware registered company headquartered in Melville, New York. Defendant Reliance First Capital conducts business throughout this District, New York, and the US.

JURISDICTION AND VENUE

3. This Court has federal question subject matter jurisdiction over this action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer Protection Act, 47 U.S.C. §227 (“TCPA”).

4. This Court has personal jurisdiction over the Defendant since the Defendant has its headquarters in this District, and the Venue is proper because Defendant resides here and a substantial part of the conduct giving rise to this action was directed towards the Plaintiff by the Defendant from this District.

INTRODUCTION

5. As the Supreme Court recently explained, “Americans passionately disagree about many things. But they are largely united in their disdain for robocalls. The Federal Government receives a staggering number of complaints about robocalls—3.7 million complaints in 2019 alone. The States likewise field a constant barrage of complaints. For nearly 30 years, the people’s representatives in Congress have been fighting back.” *Barr v. Am. Ass’n of Political Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at *5 (U.S. July 6, 2020).

6. The National Do Not Call Registry allows consumers to register their telephone numbers and thereby indicate their desire not to receive telephone solicitations at those numbers. *See* 47 C.F.R. § 64.1200(c)(2).

7. A listing on the Registry “must be honored indefinitely, or until the registration is cancelled by the consumer or the telephone number is removed by the database administrator.” *Id.*

8. When Congress enacted the TCPA in 1991, it found that telemarketers called more than 18 million Americans every day. 105 Stat. 2394 at § 2(3).

9. By 2003, due to more powerful autodialing technology, telemarketers were calling 104 million Americans every day. *In re Rules and Regulations Implementing the TCPA of 1991*, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).

10. The problems Congress identified when it enacted the TCPA have only grown exponentially in recent years.

11. Industry data shows that the number of robocalls made each month increased from 831 million in September 2015 to 4.7 billion in December 2018—a 466% increase in three years.

12. According to online robocall tracking service “YouMail,” 4.2 billion robocalls were placed in July 2021 alone, at a rate of 136.3 million calls per day. www.robocallindex.com (last visited August 16, 2021).

13. The FCC also has received an increasing number of complaints about unwanted calls, with 150,000 complaints in 2016, 185,000 complaints in 2017, and 232,000 complaints in 2018. FCC, Consumer Complaint Data Center, www.fcc.gov/consumer-help-center-data.

14. “Robocalls and telemarketing calls are currently the number one source of consumer complaints at the FCC.” Tom Wheeler, *Cutting off Robocalls* (July 22, 2016), statement of FCC chairman.¹

15. “The FTC receives more complains about unwanted calls than all other complaints combined.” Staff of the Federal Trade Commission’s Bureau of Consumer Protection, *In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Notice of Proposed Rulemaking, CG Docket No. 02-278, at 2 (2016).²

¹ <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>

² https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf

COMMON ALLEGATIONS

16. Defendant Reliance First Capital sells home loans and refinancing plans to consumers.³

17. Defendant Reliance First Capital engages in telemarketing to solicit business from consumers who have never provided consent to Defendant Reliance First Capital to call them.

18. In cold calling the consumers, Defendant Reliance First Capital places multiple unsolicited telemarketing calls to phone numbers that are registered on the National DNC, such as the Plaintiff's phone number.

19. Several of the Defendant's employees have complained about the telemarketing cold calling practices of the Defendant. For example:

- A report⁴ posted on July 23, 2019:

Disaster

Telemarketer (Former Employee) - Allentown, PA - July 23, 2019

Forced to harass people everyday for a living. Once had to call someone who was on there way into a funeral, and got screamed at to the point of no end for letting them off the phone. One manager let's everything slide to the point there's no plan in place, other manager gets psychotic if you even so much as breathe. This is a SCAM.

- A report⁵ posted on July 7, 2020:

³ <https://www.linkedin.com/company/reliance-first-capital-llc/about/>

⁴ <https://www.indeed.com/cmp/Reliance-First-Capital/reviews?fcountry=ALL&start=20>

⁵ <https://www.indeed.com/cmp/Reliance-First-Capital/reviews?fcountry=ALL>

Terrible

Telemarketing Agent (Former Employee) - Lehigh Valley, PA - July 7, 2020

Only work here if you are desperate. This is a terrible company with deceitful business practices and low pay. If you have basic reading skills and hate your life, this is the job for you. You will spend your shift harassing people on the phone while they beg you to stop calling them. Your boss will encourage you to lie on the phone to maybe close a loan. The commission is a joke on top of low hourly wage. The management team is unprofessional and uneducated so good luck if you ever need help with anything. The office even for bed bugs and we were kept in the dark about it! Management did not take bed bug issue seriously and would frequently behave inappropriately.

✓ Pros

4 hour shifts and downtime

✗ Cons

Everything else

- A report⁶ posted on July 7, 2021:

Cons

Very stressful job where they monitor your calls and minutes you are on the phone. Send an email out everyday publicly critiquing people that don't meet the requirements. Management says they are there to help you but that's a lie. They say every lead is disbursed randomly but that is a lie. The new hires get the ice cold leads that have already said no and have been called by multiple people.

- Report⁷ posted on April 22, 2021:

⁶ https://www.glassdoor.com/Reviews/Reliance-First-Capital-Reviews-E372969_P2.htm?filter.iso3Language=eng

⁷ *Id.*

Unless You Enjoy Solicitation Bordering on Harassment...

Apr 22, 2021 - Mortgage Analyst in Pittsburgh, PA

✗ Recommend — CEO Approval — Business Outlook

Pros

They pay for you to get your licenses. There is a potential to make a lot of money. Good Benefits.

Cons

Long hours. Poor Lead Quality. Very Regimented.

Lack of Leadership. Old school sales tactics.

Loan officers usually study and train for months to get a license and learn rules and regulations; it's almost impossible to know what you need to after only three weeks of training before taking the MLO test.

There's a reason why they're hiring 2-4 people per month for each branch and it's bc the majority don't last 6 months.

Advice to Management

Be forthcoming in the interview process. It is communicated that there is not cold calling, that salespeople are receiving "leads" but that is false. Calling people upwards of 8 times a day is not sales, that is harassment.

Also, stop luring people in with the draw of making 5 and 6 figures on a monthly basis. That can be done but not everyone gets there.

- Report⁸ posted on December 15, 2019:

If you want a telemarketing job, this is the place for you!

Dec 15, 2019 - Mortgage Analyst in Charlotte, NC

✗ Recommend — CEO Approval ✗ Business Outlook

Pros

I have found nothing positive.

Cons

The strategies, the extremely old leads, the script you cannot deviate from.

You basically have to make calls that they say are hot leads which aren't. Coworkers are berating customers to refinance with reliance. Basically stating you're an idiot for not refinancing. I've witnessed harassment over the phones. How it's legal is beyond me. The trainer was a jerk. She stated 3/4 of you won't last. Um excuse me? Wow, what a welcoming way to train us. Not. You are a glorified telemarketer. Seriously. The positive reviews are hilarious.

⁸ https://www.glassdoor.com/Reviews/Reliance-First-Capital-Reviews-E372969_P3.htm?filter.iso3Language=eng

20. Numerous consumers have posted complaints about receiving unwanted solicitation calls from Defendant Reliance First Capital, including calls to phone numbers registered on the National DNC, like Plaintiff Gillam. For example:

- “The company called my wife unsolicited. After telling them not to contact her they sent a text anyway. I did not give her number. It had to be sleuthed somehow. This is an invasion of privacy.”⁹
- “This company continues to call relentlessly even after telling them to stop. They even try to record themselves on RoboKiller voicemails thinking they can still get in contact. Do not ever give them your information. Bad business practices.”¹⁰
- “This company has continued to call me multiple times despite several requests from me to stop. They have also run my credit report without my permission and given my personal information to others lenders who have run my credit report and who call me to attempt to sell their products, as weel.”¹¹
- “Reliant continues to call me multiple times a day and even explained in a 50 second voicemail on why they are so persistent in calling me multiple hours during the day. Please stop.”¹²
- “I don't usually provide reviews but I feel like I need to say something about this company. I have, for months now, received unwanted calls from them (many different

⁹ <https://www.bbb.org/us/ny/melville/profile/mortgage-banker/reliance-first-capital-llc-0121-114071/complaints>

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

numbers in different states) and each time I tell them to take me off their list. Doesn't make a difference as they just call from a different number. Also I have to be rude and hang up each time after saying this because they will try to keep me on the phone arguing about their services. Beware of these tactics, and this company.”¹³

- “I've asked them multiple times to stop calling my phone. I've asked them numerous times to take me off of their list. They keep calling me. I never solicited a service from them. They just decided they should relentlessly pursue me because they bought my phone number from somewhere. They have no respect for the wishes of the people on their call list. I don't care how much they paid for my number. They are not entitled to continue calling me. I owe them nothing. I have blocked their numbers on my phone, but it still shows when I have blocked calls. I got 8 blocked calls from both of their most common numbers in the last two days. STOP FREAKING CALLING!!!!!!”¹⁴

21. Several consumers have posted complaints about receiving unwanted solicitation calls from Defendant Reliance First Capital, using the same phone number, 877-271-3082, from which Plaintiff Gillam was also called. For instance:

- “caller claimed she was calling about home refinancing that She said I inquired about(lie) . I ask to tobe removed from thei calling list, Then she asked if my name was so and so. it was not. I said nothing else except No, you called me, you should know my name IF I did request anything from you, which I Did Not. as I was hanging up she was Still asking OK, OK, but could you tell me your name? click- hang up- block SCAM”¹⁵

¹³ <https://www.yelp.com/biz/reliance-first-capital-melville-3?start=10>

¹⁴ https://www.yelp.com/not_recommended_reviews/reliance-first-capital-melville-3

¹⁵ <https://www.shouldianswer.com/phone-number/8772713082>

- “These losers have called my cell phone 10 times today. Twice I have called them to STOP bothering me. I am now going to report them FTC by calling 1-888-382-1222 and you should do the same.”¹⁶
- “I have received 23 calls from this number in the last nine days. Since I do not answer calls that I do not recognize, the call goes to voice mail for 1 second. I have the phone number blocked, but it is very annoying to continue receiving these calls since they continue to clog up my calls received list.”¹⁷
- “Gentleman asked to speak to Mr. or Mrs. ..., I asked who is calling, he said Reliance First Capital and said they had received a mortgage application from First Initial, Last Name and my email address. Which we have not been looking to refinance.”¹⁸
- “has called since the beginning of 2019 up to 10-15 times a week at all different hours, and always leaves a message with nothing but silence.”¹⁹

22. In response to these unwanted calls, Plaintiff Gillam files this lawsuit seeking injunctive relief requiring the Defendant to cease from violating the Telephone Consumer Protection Act, as well as an award of statutory damages to the members of the Class and costs.

PLAINTIFF GILLAM’S ALLEGATIONS

23. Plaintiff Gillam registered his cell phone number on the DNC on February 22, 2017.

24. Plaintiff Gillam’s phone number is not associated with a business, has never been held out by Plaintiff to the public, and is primarily for personal use.

¹⁶ <https://www.shouldianswer.com/phone-number/8772713082>

¹⁷ <https://directory.youmail.com/directory/phone/8772713082>

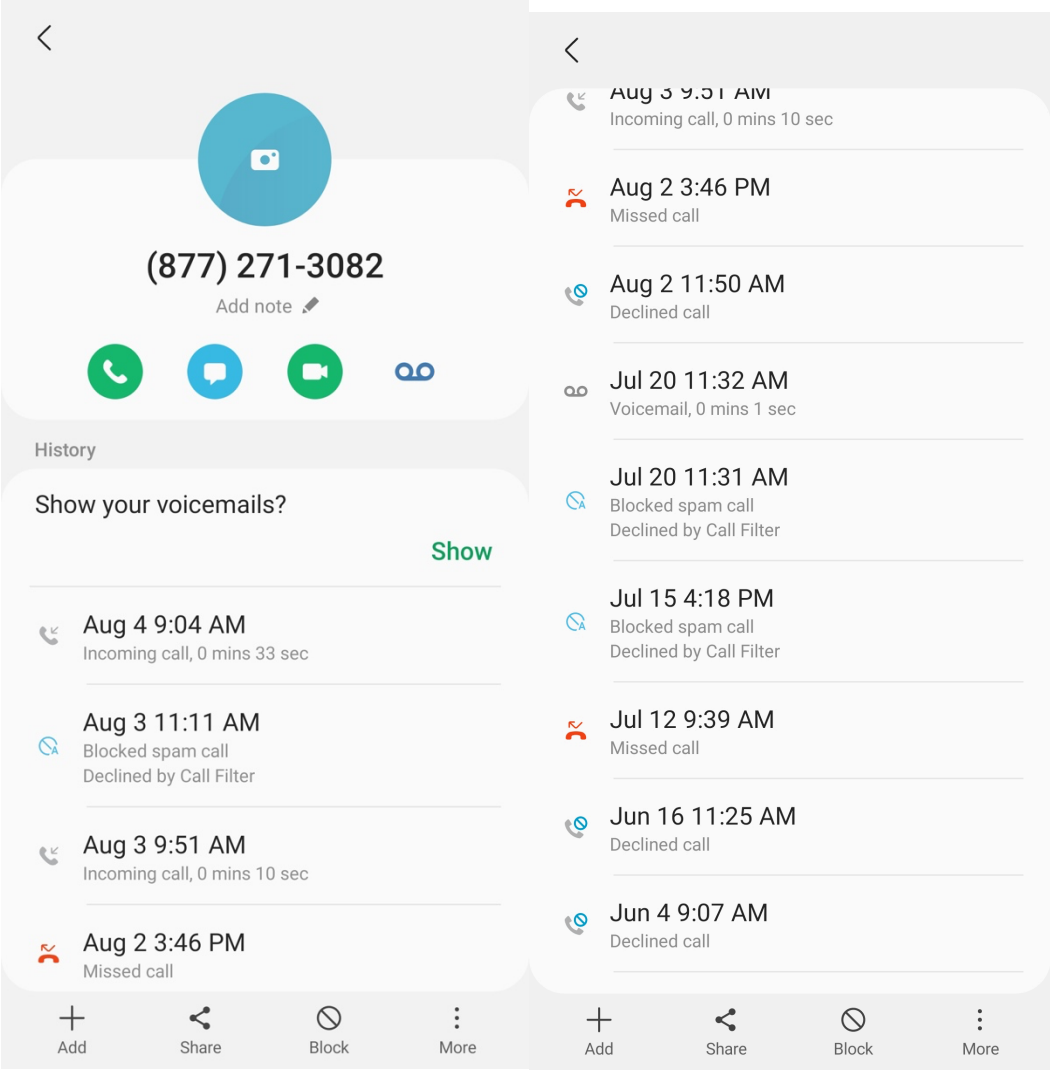
¹⁸ <https://findwhocallsyou.com/8772713082?CallerInfo>

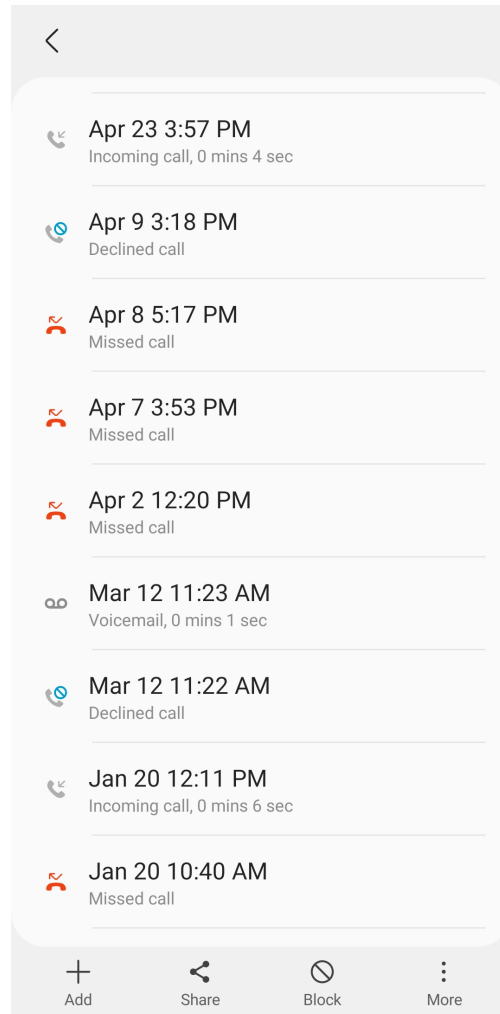
¹⁹ *Id.*

25. Starting on Jan 20, 2021, Plaintiff Gillam began getting calls from the phone number 877-271-3082 to his cell phone.

26. Plaintiff received phone calls from the above number to his phone number on the following dates and times, as can be seen in the screenshots of the call logs from Plaintiff Gillam's cell phone (below):

- a. On January 20, 2021, at 10:40 AM and 12:11 PM.
- b. On March 12, 2021, at 11:22 AM.
- c. On April 2, 2021, at 12:20 PM.
- d. On April 7, 2021, at 3:53 PM.
- e. On April 8, 2021, at 5:17 PM.
- f. On April 9, 2021, at 3:18 PM.
- g. On April 23, 2021, at 3:57 PM.
- h. On June 4, 2021, at 9:07 AM.
- i. On June 16, 2021, at 11:25 AM.
- j. On July 12, 2021, at 9:39 AM.
- k. On July 15, 2021, at 4:18 PM.
- l. On July 20, 2021, at 11:31 AM.
- m. On August 2, 2021, at 11:50 AM, and 3:46 PM.
- n. On August 3, 2021, at 9:51 AM, and 11:11 AM.





27. Plaintiff Gillam received some silent voicemails (with no voice) from some of the above calls which he did not answer.

28. On August 4, 2021, at 9:04 AM Plaintiff received another call from the same phone number, 877-271-3082. Plaintiff answered this call and spoke to an agent who was soliciting refinancing products and identified their company as Defendant Reliance First Capital. Plaintiff told the agent to stop calling him.

29. The unwanted calls that Plaintiff received from Defendant Reliance First Capital, as alleged herein, have harmed Plaintiff Gillam in the form of annoyance, nuisance, and invasion of privacy, and disturbed the use and enjoyment of his phone, in addition to the wear and tear on

the phone's hardware (including the phone's battery) and the consumption of memory on the phone.

30. Seeking redress for these injuries, Plaintiff Gillam, on behalf of himself and a Class of similarly situated individuals, bring suit under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.*, which prohibits unsolicited text messages to telephone numbers that are registered on the DNC.

CLASS ALLEGATIONS

31. Plaintiff Gillam brings this action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) and seek certification of the following Class:

Do Not Call Registry Class: All persons in the United States who from four years prior to the filing of this action through trial (1) Defendant (or an agent acting on behalf of the Defendant) called more than one time, (2) within any 12-month period, (3) where the person's telephone number had been listed on the National Do Not Call Registry for at least thirty days, (4) for substantially the same reason Defendant called Plaintiff.

32. The following individuals are excluded from the Class: (1) any Judge or Magistrate presiding over this action and members of their families; (2) Defendant, their subsidiaries, parents, successors, predecessors, and any entity in which either Defendant or its parents have a controlling interest and their current or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons who properly execute and file a timely request for exclusion from the Class; (5) the legal representatives, successors or assigns of any such excluded persons; and (6) persons whose claims against Defendant have been fully and finally adjudicated and/or released. Plaintiff Gillam anticipates the need to amend the Class definitions following appropriate discovery.

33. **Numerosity and Typicality:** On information and belief, there are hundreds, if not thousands of members of the Class such that joinder of all members is impracticable, and Plaintiff is a member of the Class.

34. **Commonality and Predominance:** There are many questions of law and fact common to the claims of the Plaintiff and the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not necessarily limited to the following:

- (a) whether Defendant Reliance First Capital placed multiple calls to Plaintiff and other consumers whose telephone numbers were registered with the DNC without first obtaining consent to place those calls;
- (b) whether Defendant Reliance First Capital's calls to Plaintiff and other consumers were made for telemarketing purposes;
- (c) whether Defendant's conduct constitutes a violation of the TCPA; and
- (d) whether members of the Class are entitled to treble damages based on the willfulness of Defendant's conduct.

35. **Adequate Representation:** Plaintiff Gillam will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in class actions. Plaintiff Gillam has no interests antagonistic to those of the Class, and Defendant has no defenses unique to Plaintiff. Plaintiff Gillam and his counsel are committed to vigorously prosecuting this action on behalf of the members of the Class, and have the financial resources to do so. Neither Plaintiff Gillam nor his counsel have any interest adverse to the Class.

36. **Appropriateness:** This class action is also appropriate for certification because Defendant has acted or refused to act on grounds generally applicable to the Class and as a whole,

thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making final class-wide injunctive relief appropriate. Defendant's business practices apply to and affect the members of the Class uniformly, and Plaintiff's challenge of those practices hinges on Defendant's conduct with respect to the Class as wholes, not on facts or law applicable only to Plaintiff Gillam. Additionally, the damages suffered by individual members of the Class will likely be small relative to the burden and expense of individual prosecution of the complex litigation necessitated by Defendant's actions. Thus, it would be virtually impossible for the members of the Class to obtain effective relief from Defendant's misconduct on an individual basis. A class action provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

FIRST CLAIM FOR RELIEF
Telephone Consumer Protection Act
(Violation of 47 U.S.C. § 227)

(On Behalf of Plaintiff and the Do Not Registry Class)

37. Plaintiff Gillam repeats and realleges the prior paragraphs of this Complaint and incorporates them by reference.

38. The TCPA's implementing regulation, 47 C.F.R. § 64.1200(c), provides that "[n]o person or entity shall initiate any telephone solicitation" to "[a] residential telephone subscriber who has registered his or his telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the federal government."

39. Any "person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may" may bring a private action based on a violation of said regulations, which were promulgated to protect telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. 47 U.S.C. § 227(c).

40. Defendant violated 47 C.F.R. § 64.1200(c) by initiating, or causing to be initiated, telephone solicitations to telephone subscribers such as Plaintiff and the Do Not Call Registry Class members who registered their respective telephone numbers on the National Do Not Call Registry, a listing of persons who do not wish to receive telephone solicitations that is maintained by the federal government.

41. Defendant violated 47 U.S.C. § 227(c)(5) because Plaintiff and the Do Not Call Registry Class received more than one text message in a 12-month period sent by or on behalf of the Defendant in violation of 47 C.F.R. § 64.1200, as described above.

42. As a result of Defendant's conduct as alleged herein, Plaintiff and the Do Not Call Registry Class suffered actual damages and, under section 47 U.S.C. § 227(c), are entitled, inter alia, to receive up to \$500 in damages for such violations of 47 C.F.R. § 64.1200.

43. To the extent Defendant's misconduct is determined to be willful and knowing, the Court should, pursuant to 47 U.S.C. § 227(c)(5), treble the amount of statutory damages recoverable by the members of the Do Not Call Registry Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Gillam, individually and on behalf of the Class, prays for the following relief:

- a) An order certifying this case as a class action on behalf of the Class as defined above; appointing Plaintiff Gillam as the representative of the Class; and appointing his attorneys as Class Counsel;
- b) An award of actual and/or statutory damages and costs;
- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;

- d) An injunction requiring Defendant to cease all unsolicited calling/texting activity, and to otherwise protect the interests of the Class; and
- e) Such further and other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff Gillam requests a jury trial.

Respectfully Submitted,

ADAM GILLAM, individually and on behalf of all
those similarly situated individuals,

DATED this 17th day of August, 2021.

By: /s/ Stefan Coleman

Stefan Coleman

law@stefancoleman.com

LAW OFFICES OF STEFAN COLEMAN P.A.

11 Broadway, Suite 615

New York, NY 10001

Telephone: (877) 333-9427

Avi R. Kaufman*

kaufman@kaufmanpa.com

KAUFMAN P.A.

400 NW 26th Street

Miami, FL 33127

Telephone: (305) 469-5881

Attorneys for Plaintiff and the putative Class

**Pro Hac Vice Forthcoming*